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United States
Circuit Court of Appeals
For the Ninth Circuit.

THAMAN SINGH,

Appellant,

EDWARD L. HAFF, District Director of Immi-
gration, Naturalization for the port of San
Francisco,

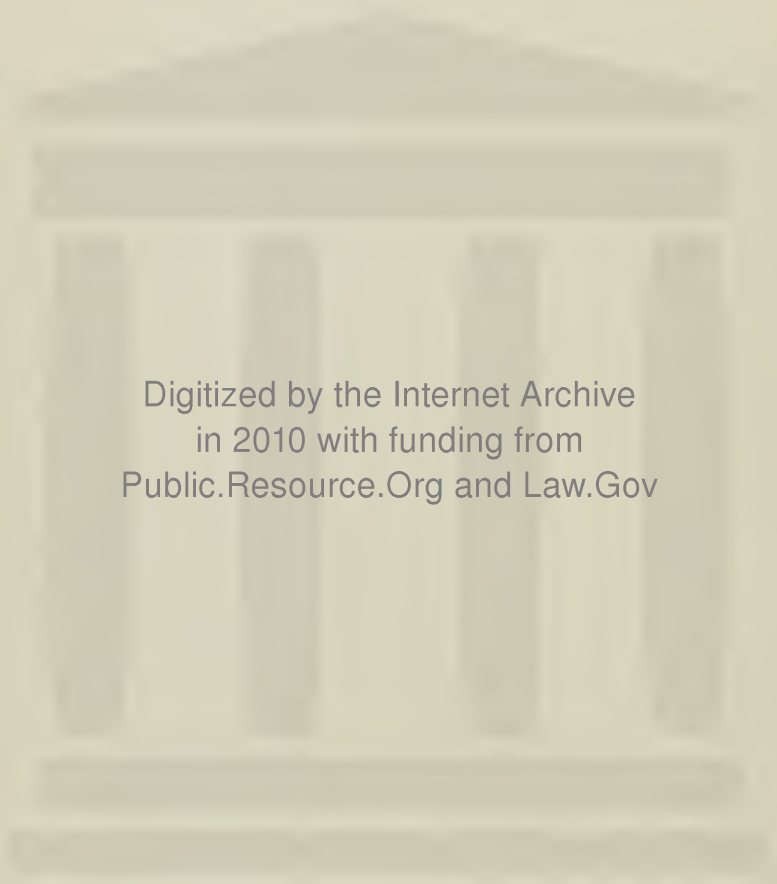
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
States for the Northern District of California,
Southern Division.

FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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In the Southern Division of the United States
District Court, for the Northern District of
California.

No. 22138-R.

In the Matter of

THAMAN SINGH,

(Alien-East Indian; Immigration No. 12020/22525)
ON HABEAS CORPUS.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable United States District Judge
now presiding in the United States District
Court in and for the Northern District of Cali-
fornia, Southern Division:

The petitioner, THAMAN SINGH, respectfully
shows:—

That he is unlawfully imprisoned, detained, con-
fined and restrained of his liberty by Edward L.
Haff, District Director of Immigration and Natural-

ization at the port of San Francisco, at the Immigration Station at Angel Island, County of Marin, State of California, and within the jurisdiction of the above entitled court; that the imprisonment, detention, confinement and restraint are illegal, and that the illegality thereof consists in this, to-wit:

That your petitioner was taken into custody on or about June 7, [1*] 1934, under United States Department of Labor warrant dated April 7, 1934; that your petitioner was charged in the aforesaid warrant with having entered the United States at a port unknown subsequent to July 1, 1924, and is in the United States in violation of the Immigration Act of 1924 in that he is an alien ineligible to citizenship and not exempted by paragraph C, Section 13 thereof; that your petitioner was given various hearings before the Immigration officials since the aforesaid date of arrest and after consideration by the Department of Labor of the evidence submitted, was ordered deported; that your petitioner at the aforesaid hearings, proved that he had legally entered the United States and never departed therefrom; that your petitioner showed that he arrived on the ss "Minnesota" March 4, 1912, at the port of Seattle, Washington; that it is admitted by the Immigration authorities that your petitioner was admitted to the United States on the aforesaid date but that subsequent to his entry he had departed from the United States. In the

*Page numbering appearing at the foot of page of original certified Transcript of Record.

Summary, Exhibit "A", (p. 5, par. 6, and p. 6, par. 1), is contained the following statement:—

The alien sets up the claim that he first entered the United States on the steamer "Minnesota" March 4, 1912, and produces two East Indian witnesses to testify to that fact. There was introduced by the Government and marked Exhibit "J" the record of one Thaman Singh, age 26, who arrived on the steamer "Minnesota" at the port of Seattle, Washington, February 28, 1912. It is the contention of this alien that this record of entry pertains to him. However, due to the fact that there is so little information contained thereon, I am of the opinion that Exhibit "J" may or may not pertain to his entry into the United States as claimed. All of the documents the alien has introduced in his behalf are those showing that he did at one time prior to the year 1912 actually reside in the Philippine Islands, although Government Exhibit "J" does show on line 5 that the person covered by this record of entry was married, and it is reasonable to presume that this does actually pertain to this alien. However, although it is believed that the alien actually did enter the United States as claimed in the year 1912 it is also believed that he did not remain in the United States for any length of time.

It is my opinion that the alien left the United States a few years after his entry in 1912 and

for many years thereafter resided and remained and was employed by many ranchers and land owners in the Mexicali district of Mexico. The alien has not presented any witnesses who can testify that he lived in the United States subsequent to the year 1912. The witnesses who testified that he arrived in the United States with them at Seattle in 1912 also testify that they did not see the alien between that time and 1930. [2]

That your petitioner is informed and believes and therefore alleges the fact to be that the Secretary of Labor issued the aforesaid deportation order solely on the ground that certain Mexican witnesses, citizens and residents of Mexico, viz: JOSE GASTELLUM, ENCARNACION PEDRO CARRILLO, ANTONIO BEJARANO, FRANCISCO BEJARANO, and ALEJANDRO JEREZ, testified that your petitioner was in Mexico subsequent to July 1, 1924, and that therefore he had lost any right to remain in the United States that he might have acquired prior to the aforesaid date; that your petitioner alleges that the identifications of your petitioner by the aforesaid Mexican witnesses were made through a photographic likeness of your petitioner and your petitioner affirms that said identification is not of sufficient weight and legality under the law to warrant an order of deportation.

Yee Et (Ep) v. U. S., 222 Fed. 66;

Backus v. Owe Sam Goon, 235 Fed. 847;

White v. Tom Yuen, 244 Fed. 739;
Ex parte Bunji Une, 41 Fed. (2) 239;
Lee Mea Yong, U. S. D. C. N. D. C. No.
18161 on habeas corpus, discharged March
28, 1924, on ground that photographic
identification was insufficient.

That your petitioner alleges he has never left the United States since his arrival therein in the year 1912, and your petitioner further alleges that there is not sufficient evidence contained in said record to sustain the immigration authorities in ordering his deportation from the United States after his many years of residence therein, and denying your petitioner his liberty.

That there is attached hereto and made a part hereof, marked Exhibit "A", a copy of the Summary of the examining inspector of immigration, and a copy of Brief, marked Exhibit "B", filed by George W. Hott, Esq.: counsel for the alien before the Department of Labor.

That your petitioner asks that the court make an order releasing him on bail during the further proceeding in said matter before this court, as he has been so at liberty on bond given before the [3] Immigration authorities which terminated upon his surrender into custody after the Department of Labor had ordered him deported. The bond under which he has been at liberty since his arrest is in the sum of ONE THOUSAND (\$1000.00) DOLLARS.

That it is the intention of said District Director of Immigration and Naturalization to deport your petitioner out of the United States and away from the land of which he has been a resident for more than 23 years by the ss "President Pierce", sailing from the port of San Francisco on the 18th day of October, 1935, at the hour of 4 o'clock P. M., and unless this court intervenes to prevent said deportation your petitioner will be deprived of residence within the United States, where he has lawfully so long resided.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue as prayed for, directed to the District Director of Immigration and Naturalization, and directing him to hold the body of your petitioner within the jurisdiction of this Court, and to present your petitioner before this Court at a time and place to be specified in said order, together with the time and cause of his detention, so that the same may be inquired into, to the end that your petitioner may be restored to his liberty and go hence without day; and that the Court release the said petitioner upon bail during this proceeding in the sum of ONE THOUSAND (\$1000.00) DOLLARS, the same amount of bail that has been posted with the Immigration authorities since his arrest June 7, 1934.

Dated: San Francisco, California, October 14th, 1935.

JOSEPH P. FALLON

Attorney for Petitioner.

(Verification.)

[Endorsed]: Filed Oct. 14, 1935. [4]

[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

Good cause appearing therefor, and upon reading the verified petition on file herein:

IT IS HEREBY ORDERED that Edward L. Haff, District Director of Immigration and Naturalization for the Port of San Francisco, appear before this Court on the 4th day of November, 1935, at the hour of 10:00 A. M. of said day, to show cause, if any he may have, why a writ of habeas corpus should not issue herein as prayed for, and that a copy of this order be served upon the District Director, and a copy of the petition and order be served upon the United States Attorney for this District, his representative herein.

IT IS FURTHER ORDERED that the said Edward L. Haff, District [5] Director of Immigration and Naturalization, as aforesaid, or whoever, acting under the orders of the said District Director, or the Secretary of Labor, shall have the custody of the said THAMAN SINGH, or the master of any steamer upon which he may have been placed for deportation by the said District Director, are hereby ordered and directed to retain the said THAMAN SINGH within the jurisdiction of this Court until its further order herein; and

IT IS FURTHER ORDERED that the petitioner, THAMAN SING, be released upon bail in the sum of ONE THOUSAND (\$1000.00) DOLLARS, pending proceedings in the matter.

Dated: San Francisco, California, October 14th, 1935.

MICHAEL J. ROCHE

United States District Judge.

[Endorsed]: Filed Oct. 14, 1935. [6]

[Title of Court and Cause.]

RETURN TO ORDER TO SHOW CAUSE AND
EXCERPTS OF TESTIMONY.

Comes now EDWARD L. HAFF, as District Director of Immigration and Naturalization for the Port of San Francisco, California through Arthur J. Phelan, as Inspector in Charge, Legal Division of the United States Immigration and Naturalization Service at said port, regularly assigned hereunto by said District Director of Immigration and Naturalization, and for cause why a writ of habeas corpus should not issue herein, shows as follows:

I.

That the person in whose behalf the petition for writ of habeas corpus was filed, is detained by your respondent Edward L. Haff, as District Director of Immigration and Naturalization for the Port of San Francisco, California, under and by virtue of a warrant of deportation duly and regularly issued by the Secretary of Labor of the United States after a hearing duly and regularly held before an Immigrant Inspector of the United States. [7]

II.

That a copy of said warrant of deportation and the original record of the entire proceedings pertaining thereto are annexed hereto and made a part hereof as Respondent's Exhibits "A" and "B".

III.

That for the convenience of the Court there are also annexed hereto and made a part hereof as Respondent's Exhibit "C", excerpts of testimony from the original immigration record heretofore referred to as Respondent's Exhibits "A" and "B".

WHEREFORE, Respondent prays that the petition for writ of habeas corpus herein be dismissed.

ARTHUR J. PHELAN

Inspector in Charge, Legal Division as aforesaid, hereunto authorized for and on behalf of Respondent Edward L. Haff, District Director of Immigration and Naturalization. [8]

EXHIBIT "C".

[Title of Court and Cause.]

RESPONDENTS' EXCERPTS OF TESTIMONY
FROM THE ORIGINAL RECORD.

The witnesses herein are:

THAMAN SINGH, petitioner, a male native and citizen of East India, 45 years of age.

KHUSHIA SINGH, a native of East India and resident of Clovis, California.

PAKHAR GUNDO, 75 years of age, a native of East India and resident of Fowler, California.

JOSE GASTELLUM, 37 years of age, a taxicab driver, citizen of Mexico and resident of Calexico, California.

ENCARNACION PEDRO CARILLO, 42 years of age, a miner, citizen of Mexico and resident of Calexico, California.

ANTONIO BEJARANO, 38 years of age, a rancher, citizen of Mexico and resident of Paredones, B. C., Mexico.

FRANCISCO BEJARANO, 40 years of age, a policeman, citizen of Mexico and resident of Mexicali, Mexico.

ALEJANDRO JEREZ, 31 years of age, a farm laborer, citizen of Mexico and resident of Casey, B. C., Mexico.

PEDRO GONZALES, 41 years of age, a ranch foreman and resident of Westley, California.

MANUEL VELASCO, 30 years of age, a resident of Firebaugh, California.

ED HARNAN, Hindu, an employee of the Bridal Veil Lumber Company of Bridal Veil, Oregon. [9]

KHUSIA SINGH AND PAKHAR GUNDO appeared in petitioner's behalf. The other witnesses named testified for the government.

The Secretary of Labor has ordered the petitioner deported to India on the ground that he is in the United States in violation of the Immigration Act of 1924 in that at the time of his entry he was not in possession of an unexpired immigration visa

and on the further ground that he is in this country in violation of said Act in that he is an alien ineligible to citizenship and is not exempted by paragraph (c) Section 13 thereof.

There is set forth below from the immigration record of the testimony upon which the administrative decision is based:

I.

Petitioner testified on February 3, 1933 as follows:

“Q. What is your true name?

A. Thaman Singh.

Q. Have you ever used any other name?

A. No sir.

Q. What is your age, date and place of birth?

A. Little over 45 years old; I don't know the date of my birth; born in the village of Tallewal, State of Patiala, Punjab, India.”

(Respondent's Exhibit “A”, p. 145.)

“Q. When did you come to the United States?

A. March 4, 1912, on the steamer Minnesota; landed at Seattle, Washington.”

* * * * *

“Q. Have you ever been outside of the United States since you came to the United States in 1912?

A. No sir.”

* * * * *

“Q. Have you ever been married?

A. No never.

Q. Did you ever have a wife in India?

A. No sir."

(Id. p. 146)

And on October 4, 1934, he testified as follows:

"Q. After you landed from the steamer where did you go?

A. I stayed about a week in Seattle, and then I went to Portland, Oregon, where I worked for the Minard (phonetic) Lumber Company.

Q. How long did you work for that Company?

A. For about three or four years."

* * * * *

"Q. When did you leave Oregon?

A. I left Oregon about 1920.

Q. Where did you go from Oregon?

A. Then I came to California."

(Id. pp. 33 and 34). [10]

"Q. Have you always remained in California since your arrival here?

A. No. I went back to Oregon again.

Q. How long did you stay there at that time?

A. I stayed in Oregon about one year at that time.

Q. Who did you work for in Oregon at that time?

A. I worked for the Linton (phonetic) Lumber Company."

* * * * *

“Q. After you had worked for this lumber Company a year where did you go then?

A. Then about 1924 I went to Utah.

Q. Who did you work for in Utah?

(No answer).

Mr. FALLON: I wish to introduce in evidence and have marked Exhibit “H” for the alien letter signed by H. H. Rainey, on letter-head of the A. S. & R. Co., dated Sept. 30, 1932, certifying that this alien was a laborer at that plant in 1924 and 1925.”

(Id. p. 35).

“Q. When did you start to work in Garland, Utah?

A. I started to work in Garland either in May or June of 1924.

Q. When did you quit?

A. In May or June, 1925.

Q. What was the name of the Company you worked for in Garland?

A. The Salt Lake Garland Company.

Q. What kind of work did you do?

A. I was dumping the ore.

Q. Who was your foreman at that place?

A. I don't remember his name. But his name is given on the letter that was issued to me.

Q. Do you know any other East Indians who worked in that smelter at that time?

A. There was no East Indians working at that time when I worked at that place.”

(Id. p. 53).

The following is quoted from a communication dated May 23, 1933 addressed to the immigration authorities by the Employment Department of the American Smelting & Refining Company of Garfield, Utah:

“Thamen Singh worked at the Garfield Plant of the A. S. & R. Co., from 5/6/1925 to 5/8/1925 and from 11/24/1925 till 12/14/1925.

His personal examination record in our files shows him to be 48 years of age, now. (Born 1885). He was 5 feet 9 inches tall and weighed 175 pounds. We have his signature on file here, and would be glad to compare it for you.

The enclosed photo is not recognized by anyone in this office as Singh.

Before coming to Garfield, Utah, he gives his record as having worked on the Western Pacific Railroad section gang for two years and farming in California, previous to that. From here he went to Bingham, Utah where we last heard of him there on December 15, 1925.”

(Id. p. 127).

The following is quoted from a report dated October 25, 1934, covering an investigation conducted by the immigration authorities at the Garfield Plant of the American Smelting and [11] Refining Company.

“Following is an extract taken from the employment record of a Thamen Singh who was employed at the Garfield plant:

Complexion—dark

Eyes—black

Hair—dark

Beard—dark (mustache)

Build—stocky

Carriage—straight

Weight—175 lbs.

Height—5' 9"

Date of birth—1885

Place of birth—Sangrana Punjab India

Widower.

Under the title of former employer is shown: Farmer in California, years not given; Western Pacific Railroad, section hand, two years; years not given. This man worked at the plant on two different occasions. The first occasion, from 5/6/25 to 5/8/25, he worked in the flue dust under flue dust contractor J. E. Griffith; then from 11/24/25 to 12/14/25 he worked in the surface department."

(Id. p. 132).

Petitioner testified on January 7, 1935, as follows:

"Mr. Fallon to Thaman Singh alias Thomas Singh:

Q. How tall are you?

A. About five feet six and a half or seven.

Q. What is your weight?

A. I weigh about a hundred and thirty-five but I weigh sometimes about a hundred and fifty.

Q. Calling your attention to Government Exhibit "S" which is report from the American Smelting & Refining Co. at Garfield, Utah, it states that their records show that you are 48 years of age and that you were born in 1885, and it says that the man was 5' 9" tall and weighed a hundred and seventy five pounds. Do you weigh a hundred and seventy-five pounds?

A. No. I never weighed a hundred and seventy-five pounds. The most I ever weighed was a hundred and fifty.

Q. How was that report then. It evidently refers to you. It gives the height 5' 9" and the weight as a hundred and seventy-five pounds.

A. I am not that tall and I never weighed a hundred and seventy-five pounds, but I might have made a mistake at the time of my employment there.

Q. Did they measure you?

A. Yes. I was measured over there.

Q. You state that you did work for the American Smelting & Refining Company, however?

A. Yes.

Q. How long did you work there?

A. About a year."

(Id. p. 70).

And on February 5, 1935 he testified as follows:

"Q. Did you write to the American Smelting and Refining Company for a report on the time you worked there?

A. Yes. [12]

Q. Did you receive a reply?

A. Yes, they wrote me a letter.

Q. Did they describe your appearance in the letter?

A. Yes, they wrote a description in that letter.

Q. Does that correspond with the description given in this report here?

A. No. It does not correspond with this statement."

(Id. pp. 77 and 78).

"Mr. FALLON: At this time I will offer in evidence the letter which the alien received from the American Smelting & Refining Co. under date of January 11, 1935, in answer to one evidently written by him.

EXAMINING OFFICER: The letter presented is marked Exhibit "L" for the alien. It is noted that part of the information contained in Government Exhibit "V" as to the date of birth, height, are the same as in the letter which has been presented on behalf of the alien.

Examining Officer

to Thaman Singh, alias Tomas Singh:

Q. You have previously stated that there was a difference in the description. What difference is there between the letter previously introduced on January 11, 1935, and Government Exhibit "V"?

A. The difference I mean is that when I was employed they didn't measure me. It was approximately taken as 5' 9", and also they didn't weigh me but just made a guess at it."

(Id. p. 78).

The following is quoted from application for re-entry permit No. 773205, signed by one Thaman Singh on November 28, 1928 and filed with the immigration authorities:

"NAME: (Print full name) THAMAN
SINGH

Place of birth SANGRANA (INDIA)

Date Sept. 23, 1883

* * * * *

Place of business or employment Western Rail-
road Co., Portola—Salt Lake City

* * * * *

Personal description:

Age 45, Height 5 ft., 9 inches, Weight
175 lbs."

(Id. p. 126).

Petitioner testified on October 4, 1934, as follows:

"Q. Did you ever make application for a return permit?

A. No. I never did."

(Id. p. 41).

"Q. Calling your attention to this application for return permit No. 773205, do you know that man whose likeness is attached thereto?

A. Yes, I know him.

* * * * *

Q. Have you ever seen this alien since you have been in the United States?

A. Yes, I saw him when he went to India.”
(*Id.* p. 49). [13]

“Q. Do you know what this man’s name is?

A. I don’t know his real name but when he came to this country he called himself by the name of Thaman Singh.”

(*Id.* p. 50).

“EXAMINING OFFICER: There is introduced and made a part of the record a communication from the American Smelting & Refining Company at Garland, Utah, dated September 11, 1933, bearing the signature of one Thaman Singh from the employment records of that Company, same being marked Government Exhibit “H”. There is introduced and made a part of the record the signature of the subject alien Thaman Singh, signed at his hearing today, and marked Government Exhibit “I”.

(*Id.* p. 54).

“Q. Is this your signature on Exhibit “H”?

A. Yes.

Q. When did you make that signature?

A. I didn’t know how to write. Sometimes I write this way and sometimes in a different way.

Q. Your attention is invited to your signature on certificate of registration at Manila, P. I., which is an entirely different signature. How do you account for that fact?

A. I could not write very good.

Q. It will be noted that you make the letter "A" after the "H", whereas in the signature in Government Exhibit "H", the letter after "H" appears to be "U". Instead of "Thaman" it appears to be Thuman. How do you account for that?

(No answer).

By Mr. FALLON: Q. Are these signatures your signatures and did you sign those papers?

A. Yes, those are all my signatures, and that last one is better because I have practiced writing."

(Id. p. 60).

II.

Petitioner testified on January 7, 1935 as follows:

"Q. How far from the city of Salt Lake City was the plant that you worked at for the American Smelting & Refining Company?

A. There was fifty cents fare from Salt Lake City to Garfield.

Q. How far from Garfield was the plant situated?

A. The fare was fifty cents from Garfield to the smelter.

Q. Can you give me a rough sketch of how the plant is situated? In what direction is it from Garfield, north, south, east or west?

A. I don't know the directions. [14]

Q. I will ask you what was the name of the town you lived in during your employment with

the American Smelting & Refining Company at Garfield, Utah?

A. I was living right around the smelter.

Q. What was the name of the town you were living in near the smelter?

A. The name of the town is Garfield too.

Q. Did you ever hear of a town called Smel-
tertown?

A. Yes.

Q. Were you ever in Smelertown?

A. Yes.

Q. Where is Smelertown located?

A. Smelertown is quite a distance from the place where I worked.

Q. How far from the place where you worked was Smelertown, approximately?

A. Either fifteen or twenty miles, I am not sure."

(Id. p. 72).

"Q. How large a place is Smelertown.

A. It is not a very big town, but it is a good looking town."

(Id. p. 73).

And in the same connection he testified on February 5, 1935, as follows:

"Q. I show you a photograph marked Government Exhibit "Y", the dimensions of which are about 5"x6", and ask you if you recognize that photograph as any place where you have ever worked?

A. From the picture I cannot identify the place because I am not a photographer.

Q. Did you ever see that place?

A. I may have seen it but I can't recognize it.

Q. I will show you another photograph marked Government Exhibit "Z" and ask you if you recognize that place as any place where you have ever worked?"

* * * * *

"A. I don't know. Salt Lake City is a pretty big town and Portland is a very big town and so is Seattle.

Q. Do you remember of working in any place that appears like the photographs marked Exhibit "Z"?

A. There are lots of mills I worked in Salt Lake City that looks like that, and the mill where I worked in Tacoma also looks like that, and also Seattle and Portland.

Q. For your information this photograph marked Government Exhibit "Z" is a photograph of the Garfield plant of the American Smelting & Refining Co., which you previously testified that you worked for in 1924. Can you identify the picture now, it having been explained to you that it is a picture of a plant where you claim to have worked in 1924?

A. Yes. I can recognize it now.

Q. I will ask you to point out the different places for me. Can you tell me what this build-

ing is indicated by a circular Mark No. 1 on the photograph?

A. I can't tell from the picture."

(Id. p. 75). [15]

The following is quoted from a report dated October 25, 1934, covering an investigation conducted by the immigration authorities at the Garfield Plant of the American Smelting & Refining Company:

"Enclosed you will find a rude freehand sketch showing in a crude way the location of the several buildings at the Garfield plant. As an explanation, Great Salt Lake lies directly to the north and extends around to the northwest of this plant. The plant is built up against the base of a high mountain to the east and south. As will be noted, in the northwest corner there is what is called Smelertown. This town is composed of five rows of small two, three, and four-room houses, numbered as shown, Row A, B, C, D and E. In 1924 there was a store located in practically the center of Smelertown, ran by two men by the name of Speers and Butters."

(Id. p. 133).

III.

Petitioner testified on October 4, 1934, as follows:

"Q. After you left the employ of the American Smelting & Refining Co. at Garland, Utah, where were you next employed?

A. Then I was employed by Bradeville Lumber Co. (phonetic) in Oregon.

Q. In what city in Oregon is the Bradeville Lumber Co. located?

A. Portland.

Q. Was it situated right in the city of Portland?

A. I don't know how far from Portland but I remember the fare on a street car was a dollar."

* * * * *

"Q. Did you go on a steam train or was it an electric train?

A. An electric car."

* * * * *

"Q. What month and year did you start your employment with this company?

A. Either in April or March, 1926.

Q. When did you leave this company?

A. Either in October or November, 1929. When the mills were stopped I quit.

Q. What month in 1929 did you quit?

A. Either October or November.

Q. What was the name of your boss in that mill?

A. The name of the boss was Surain Singh.

Q. What was the name of the white foreman?

A. I don't remember, but I have written for it and will send it to you.

Q. Do you know any other white persons employed by that Company?

A. I don't remember any of their names but I remember many East Indians were working there at that time.

Q. How many East Indians were working there at that time?

A. About a hundred East Indians were working in that mill at that time." [16]

* * * * *

"Q. After you left the employ of this mill where were you next employed?

A. I lived there at the mill waiting for it to open up for about a year, and then I came back to California."

(Id. pages 54, 55 and 56).

"Q. Well after you left the Bradeville Lumber Company where did you go?

A. Then I came to California.

Q. What part of California?

A. In 1930 I came to California, but I didn't work any place—just bumming around."

(Id. p. 36).

"Q. Did you work between the time you left in October, 1929, at the Bradeville mill, and the time you went to work in January, 1931, on the Farm Ranch near Wasco?

A. No, I didn't work during that time."

(Id. p. 57).

A report made by Immigration Inspector M. C. Pommarane dated November 1, 1934, is quoted as follows:

“In the case of THAMAN SINGH the writer called at the office of the Bridal Veil Timber Company at Bridal Veil, Oregon yesterday. Examination of their records from 1925 to and including 1930 revealed that during this period the Company had working for them eight Hindu aliens, working contract work piling lumber and around the dry kiln. These Hindus were all Singhs, and worked in groups of two and three as follows:

Gang #1—Jawala Singh, Nadha Singh, Ram Singh.

Gang #2—Sarian Singh, Harry Singh.

Gang #3—Booja Singh, Dee Singh, Sam Singh.

(The gang designations are mine).

“In addition to the eight named above there was another Hindu Harnan Singh, who started working for the Company in 1909 and worked with white men during that period but was used as an interpreter and was recognized as the boss of the Hindu aliens.

“There was no white man now employed by the Bridal Veil Timber Company who admitted having any contact with the Hindus employed by the Company in 1925 to 1930 and so I took a statement from the Hindu alien Harnan Singh or Ed Harman, only. That statement attached.

“There never has been an electric car or train running to Bridal Veil from Portland, this

service being steam train and bus. The fare by steam train during the period when the alien claims to have been employed at 'Bradeville' was ninety-five (95) cents.

"From the foregoing it would appear that our surmise as to Bridal Veil being the 'Bradeville' referred to by the alien is correct as there is no other town or company of any similar name known locally or to Mr. George Cromwell, the publisher of 'The Timberman' the lumbermens official organ."

(Id. p. 136). [17]

In this connection Ed Harnan testified as follows on October 31, 1934:

"Q. How long have you worked for the Bridal Veil Lumber Company?

A. Twenty-six years.

Q. Have you worked continuously during that period of time?

A. Yes, from 1909 to 1921 for the Bridal Veil Lumber Company and from 1921 until now for the Bridal Veil Timber Company.

Q. Were you working here during the period from 1925 to 1930 when the Bridal Veil Lumber Company employed a number of Hindus?

A. Yes.

Q. During the period of 1925 to 1930, did the man of whom this is a photograph ever work here? (Shown photograph identified as Thaman Singh—12020/22525—25996).

A. No.

Q. Did you ever see that man?

A. No, I never been anywhere but Portland and Bridal Veil.

Q. Do you know a man by the name of THAMAN or TOMAS SINGH?

A. No, I don't.

(Id. p. 137).

Petitioner testified in the same connection on February 5, 1935, as follows:

EXAMINING OFFICER: There is introduced in evidence and marked collective Exhibit "W" for the Government, the following: A communication dated Portland, Oregon, November 1, 1935, signed by the Divisional Director at that port, photograph of Thaman Singh and a report by Immigrant Inspector M. O. Pommeraine, together with a sworn statement taken by Inspector Pommerane from one Ed Harnan, at the Bridal Veil Timber Co. at Bridal Veil, Oregon, October 31, 1934, in which Mr. Harnan states that he has worked for the Bridal Veil Timber Co. from 1909 to 1921, and from 1921 to the present date after it changed its name to the Bridal Veil Timber Company.

Examining Officer

to Thaman Singh alias Tomas Singh:

"Q. There is a report here from Mr. Ed Harnan, who states that he has worked for the Bridal Veil Timber Company for the past 26 years. He was shown your photograph and

states that he does not know you and that he has never seen you in Bridal Veil, Oregon. Did you ever work for the Bridal Veil Lumber Company or the Bridal Veil Timber Company of Bridal Veil, Oregon?

A. Yes.”

(Id. pages 78 and 79). [18]

“Mr. Fallon to

Thaman Singh alias Tomas Singh:

Q. How did you get from Portland to the plant at Bridal Veil?

A. One can go from Portland to Bridal Veil by bus and train.

Q. A steam train?

A. Yes, a steam train.”

* * * * *

“By EXAMINING OFFICER: “Q. Could you go from Portland to Bridal Veil on a street car?

A. No. You can go by stage on the Columbia Highway.

Q. On page 32 of the testimony on October 4, 1934, you were asked the question, ‘was it situated right in the city of Portland?’ Answer: ‘I don’t know how far from Portland but I remember the fare on the street car was a dollar.’ How do you account for such a statement as that?

A. I told my attorney before that that was a slip of the tongue. I meant to say stages or

locomotive trains. I mentioned electric trains but I meant locomotive trains.

Q. How do you account for the fact that on page 32 of the testimony of the same date you were asked the question, 'Did you go on a steam train or an electric train?' Answer: 'An electric train.'

A. I made that statement under the wrong impression. I had forgotten. I didn't reflect enough."

(Id. pages 80 and 81).

IV.

Antonio Bejarano testified on February 14, 1934, as follows:

"Q. What has been your occupation since 1921?

A. When we first came to Paredones in 1921, we opened a meat market. I was with my father and brothers in that business until May, 1925. During that period it was my work to sell meat among the ranchers and other people who lived in the Paredones District, from a wagon. From May, 1925 until two years ago I worked for the Union Oil Company at Paredones, Mexico."

* * * * *

"Q. During the period of time that you resided at Paredones, Mexico, were you acquainted with any people of the East Indian or Hindu race?

A. I knew lots of them by sight. During the time I sold meat from the wagon, I was out among the workers in that district practically every day. About the first part of 1924 quite large numbers of those Hindus came into the Mexicali District and most of them were employed in the near vicinity of Paredones and Tecolote, B. C., Mexico. I sold meat in the camps where they lived just about every day, and I came to know many of them by sight."

* * * * *

"While I was working for the Union Oil Company, I trucked gasoline and oil to the ranches and construction projects and there were many Hindus employed at those places, and I became acquainted with many of them then. Among the places that I took gas and oil were the Globe Mills and the [19] Delta Canal Company. Both those companies employed large numbers of Hindus. A few of those people I became quite friendly with and I knew them by name.

Q. If you were shown photographs of any of those Hindu people who were in contact with during your residence in Paredones, Mexico, would you be able to positively identify them by their photographs?

A. Some of them I am positive that I would. I might not be able to tell you just what camp or ranch or construction project they were employed on as they changed places quite

often. However, if you have any photographs of those Hindu people, I will tell you if I know them, and if I am able, I will tell you just where they were.

Q. I will now show you a photograph of a man and ask if you have ever seen him? (Shown photograph of THAMAN SINGH, San Francisco file No. 12020/22525, Fresno file No. 815/836, being one of a group of 65 photographs shown the witness.)

A. Yes, I know that fellow. That is Tomas Singh. He was in the Mexicali Valley for many years. The last time I saw him was in 1931 when he was on a truck with a man by the name of Garcia. They were hauling wire from Paredones, B. C., Mexico to Shank No. 1 Ranch of the Colorado River Land Company near Cierro Preito, B. C., Mexico. Tomas was a Hindu who did not mingle much with the other Hindus. He always worked and associated with Mexicans. He had a Mexican sweetheart at Palaco, B. C., Mexico. They lived right across from the Gas Station. Most everybody in the Mexicali District knows Tomas. Tomasito (Diminutive of Tomas) was a very good friend of mine, but I have told you that I would tell the truth, so I must tell you that he was there in Mexico.”

(Id. pages 152 and 153).

Francisco Bajarano testified on October 14, 1934 as follows:

“Q. Since September, 1924 have you come in contact with or been acquainted with any people of the Hindu or East Indian race?

A. Yes, while I was stationed at Paredones, B. C., Mexico, the Globe Mills employed quite large numbers of those people during the years 1924, 1925 and 1926. There were some Hindus employed by that company for a year or two after that. My duties took me to the various ranches and construction projects where those Hindu people were employed and lived, and I came to know many of them by sight. They also came into Paredones and Tecolote to buy provisions and for various other reasons, and I saw many of them in those places.”

(Id. p. 154).

“Q. I will now show you a photograph of a man and ask you if you have ever seen him? (Shown photograph of THAMAN SINGH, San Francisco file No. 12020/22525, Fresno file No. 815/836, being one of a group of 65 photographs shown the witness). [20]

A. Yes, I know that Hindu well. He was around in the Mexicali, Mexico District for many years. He was usually working and living with Mexicans. He did not associate much with other Hindus. We all knew him by the name of Tomas Singh. The last time I saw him was in 1931.”

(Id. p. 155).

Alejandro Jerez testified on March 7, 1934, as follows:

“Q. How long have you resided in the Mexicali, Mexico District?

A. Since around 1921.

Q. During the time of your residence in the Mexicali District, have you been employed on any ranches where East Indian or Hindus have been employed or have resided?

A. Yes, in 1926 I worked on the Stevenson ranch south of Cuervos, B. C., Mexico where many Hindus were employed. During 1929 and part of 1930 I worked at camps No. 9 and 10 on the Hechicera ranch at Hechicera, B. C., Mexico where there were many Hindus employed and many other Hindus were in that district either looking for work or to visit the Hindus who were employed on the Hechicera ranch. I also drove a taxi cab in Mexicali from 1924 to 1926 and saw many Hindus there and also in Colonia Abasolo near Mexicali, Mexico. I also worked on Shenk ranch No. 1 south of Palaco, B. C., Mexico during part of 1924 and part of 1930. There were Hindus employed there also.

Q. If you were shown photographs of any of those Hindus who were employed on ranches where you worked or whom you have seen in the Mexicali District, would you be able to positively identify them?

A. Yes, some of them at least.

Q. I will now show you a photograph of a man and ask you if you have ever seen him? (Shown photograph of THAMAN SINGH, San Francisco file No. 12020/22525, Fresno file 815/836, being one of a group of 71 photographs shown the witness).

A. Yes, I first saw him at Shenk No. 1 ranch working for the Colorado River Land Company. The last time I saw him was in Mexicali in 1931. When he was on the Shenk ranch he was boarding at Alberto Gonzales' place at Shenk No. 1½ ranch. I know him as well as I know my hand. This Hindu speaks the best Spanish of all the Hindus. This fellow never ran around with other Hindus, he was always with Mexicans."

(Id. p. 156).

Jose Gastellum testified on August 12, 1933, as follows:

"Q. Do you at times carry people in your taxicab to various ranches in the vicinity of Mexicali?

A. Yes.

Q. Have you in the past ever taken Hindus to various ranches from Mexicali?

A. Yes.

Q. I will present you with a photograph of a Hindu and will ask you if you have ever seen this [21] (Shown photograph of Thaman Singh which accompanied letter from Fresno office dated May 20, 1933).

A. Yes.

Q. Where have you seen him?

A. I took him in my taxicab to a ranch about 8 miles east of Mexicali. It is a small ranch and I do not know the name of it. It was in 1930 but I do not remember exactly the month. It may have been around June."

* * * * *

"Q. Did you see this Hindu later in Mexico?

A. Yes, I saw him in Mexicali about three months after the time I took him to the ranch.

Q. You state very positively that you know this Hindu, Thaman Singh, from a photograph of him. Explain why you are so certain that this is the Hindu that you knew in Mexicali.

A. One day about three years ago this Hindu accosted me on the street in Mexicali and asked me if I would take him to his ranch about eight miles east of Mexicali and I told him that I would. He asked me how much it would cost and I told him 8 or 9 pesos, I don't remember just which, but the Hindu said 'Well, I am not ready to go just yet, let's go and have a drink of beer'. So we went to a bar and were drinking beer and other drinks for some three or four hours before I took him to the ranch. Then some two or three months later I saw this Hindu again in Mexicali and he came over to me and said 'How are you', and we conversed for possibly an hour at that time. After being with him for this length of time there is no question at all as to whether or not I know

him. I am positive that this Hindu whose picture you have is the same Hindu whom I took to a ranch east of Mexicali and talked with later on the streets of Mexicali sometime during the summer of 1930.

Q. Do you know this Hindu's name?

A. No.

Q. Was anyone with you at the time you took this Hindu to the ranch east of Mexicali?

A. Yes, an uncle of mine by the name of Pedro Carrillo was with me.

Q. I want to ask you again, are you positive that the Hindu whose picture I have shown you was the same Hindu who you saw in Mexicali in 1930?

A. Yes, I am positive he is the same.

Q. Are you acquainted with the Hindus, that is generally speaking, who live in Mexicali and vicinity?

A. Yes, I know I believe all of them by sight but I do not know more than 2 or 3 of their names."

(Id. pages 148 and 149).

Encarnacion Pedro Carillo testified on August 18, 1933 as follows:

"Q. I will present you with a photograph of a Hindu and will ask if you have ever seen this Hindu before. (Shown photograph of Thaman Singh which accompanied letter from Fresno office dated 5/20/33). [22]

A. Yes.

Q. Where have you seen him?

A. I saw him in an automobile in Mexicali in the summer of 1930.

Q. Whose automobile was he in?

A. Jose Gastellum's automobile.

Q. What class of automobile was this?

A. It was a taxi.

Q. You state very positively that you knew this Hindu, Thaman Singh, from this photograph of him. Kindly explain why you are so certain that this is the Hindu you saw in Mexicali.

A. He was in this taxi with Jose Gastellum and Jose asked me if I wanted to take a ride with him and we took the Hindu to a ranch about eight miles east of Mexicali."

* * * * *

"Q. I want to ask you again are you positive that the Hindu's picture I have just shown you is the same Hindu whom you saw in Mexicali in 1930?

A. Yes, I am positive he is the same one.

Q. Why are you so positive of this?

A. His jaws are so wide and his face is long."

(Id. pages 150 and 151).

Petitioner testified in this connection on October 4, 1934, as follows:

"EXAMINING OFFICER: There is introduced into the record and marked Exhibit

“B” sworn statement of Jose Gastellum, dated August 18, 1933; there is introduced in evidence and marked Exhibit “C” sworn statement of Encarnacion Pedro Carrillo, taken at Calexico, California, August 18, 1933; there is introduced in evidence and marked Exhibit “D” sworn statement of Antonio Beharano, taken at Calexico, California, February 14, 1934; there is introduced in evidence and marked Exhibit “E” sworn statement of Francisco Bejarano, taken at Calexico, Calif., February 14, 1934; there is introduced in evidence and marked Exhibit “F” sworn statement of Alejandro Jerez, taken at Calexico, California, March 7, 1934.

(The contents of the exhibits referred to are read to the alien by the interpreter.)

“Q. Have you any comment to make regarding the statements that have just been read to you?

A. After hearing the statement of one of the witnesses I feel that the rest of them are probably the same way, and I am sure all of it is not true.”

(Id. pages 29 and 30).

“Mr. Fallon to
Thaman Singh alias Tomas Singh:

* * * * *

“Q. Were you ever in Mexico?

A. No.”

* * * * *

“Q. The Government has introduced certain affidavits of Mexican citizens to the effect that you were [23] in Mexico in 1930. Were you there at that time?

A. No.

Q. Do you know Jose Gastellum?

A. No.

Q. He states that he saw you in Mexico in 1930. Is that true?

A. No.

Q. The Government has also introduced a sworn statement by Encarnacion Pedro Carrillo, a Mexican, to the effect that he saw you in Mexico about 1930. Is that correct?

A. No. It is not true.

Q. What were you doing in the year 1930?

A. The lumber mills were stopped so I didn't do anything but just travel around having a good time.”

* * * * *

“Q. In 1931 Mr. Antonio Bejarano states that he saw you in Mexico. Is he correct?

A. No.

Q. Also Francisco Bejarano states the last time he saw you was in 1931 in Mexico. Is that correct?

A. No.

Q. Now do you know any of these Mexicans?

A. No.

Q. Can you get any evidence from the Oregon companies that you worked for similar to that letter from Utah?

A. I can get it if I go there but I don't have the money. I spent all I made.

Q. Did you ever send any money back to India?

A. No.

Q. Have you any documents, such as pass books from a bank or anything of that nature?

A. No. I never deposited any money in any bank. I just make it and spend it."

(Id. pages 39 and 40).

And on February 5, 1935 he testified as follows:

"Q. You are advised that the Government will gladly cooperate with you in every way to enable you to cross-examine these witnesses at Calexico, California. You will be afforded every opportunity this office can grant to have these witnesses presented at Calexico for cross-examination. There is no provision in our rules and regulations, however, whereby these witnesses may be brought to this district for cross-examination. However, if you will inform this office within fifteen days of the date you wish to have these witnesses produced at Calexico, this office will make the necessary arrangements and notify your attorney. Do you desire to avail yourself of this opportunity?

A. I am a poor man and I can't go over there, and if I do go there I will have to hire

an attorney there for cross-examination, and I don't see how I can go because I don't have the money. However, I will think it over.

Q. You will be given fifteen days to notify this office, in writing, as to whether you will avail yourself of the opportunity to cross-examine the Government witnesses at Calexico within the thirty succeeding days. Do you understand?

A. Yes."

(Id. pages 82 and 83). [24]

The following quoted statement was made by petitioner's attorney on March 11, 1935:

"Mr. FALLON: Under date of February 18th I received a communication from Mr. Thaman Singh, which letter reads as follows:—

'As I was told by you that I had to appear before immigration commission at Calexico, California, for my testimony, I may say that at present I cannot bear the expense of my trip and as well as my counsel. But later on, in September or October, I might have some money left after paying your fee. Then I could go there. Or else if the Immigration Department is bearing all expense I am willing to go at any time they may so desire.' At this time I would like to ask a continuance, as expressed by the alien, to September or October, 1935, if it is agreeable to your office.

EXAMINING OFFICER: Such a continuance cannot be granted the alien."

(Id. pages 85 and 86).

Pedro Gonzales testified on June 28, 1934 as follows:

“Q. Have you ever been in Mexico?

A. Yes. I worked as a foreman, first for the Globe Mills Company and then for the Colorado Land Company, both ranches located in Mexico near Mexicali.

Q. How long did you work for the Globe Mills Company?

A. Four years. I started in 1921 and worked until 1925.

Q. How long did you work for the Colorado River Land Company?

A. I worked there in 1925, 1926, 1927, 1928, up until the Fall of 1929 when I returned to the United States.

Q. During the time you were foreman of these two ranches did you have any Hindus working for you?

A. Yes, when I worked for the Colorado River Land Company I had about fifteen or sixteen Hindus working for me. I didn't have any Hindus working for me when I was with the Globe Mills Company. (Photograph of Thaman Singh, alias Tomas Singh, San Francisco file 12020/22525, exhibited to witness).

Q. Who is that?

A. That is Tomas Singh or Tomas Juan. He worked for me in Mexico while I was foreman for the Colorado River Land Company.

He worked for me for about one year during 1926 and 1927.

Q. Did he work for you in Mexico at any other time?

A. No. When I left there he began working for my brother Alberto Gonzales.

Q. Are you positive that the picture that I just showed you is the same Hindu whom you state is Tomas Singh or Tomas Juan who worked for you on this ranch at the time mentioned?

A. Yes.

Q. Did he work immediately under your supervision and did you pay him his wages?

A. Yes, I was immediately over him in the work and I also gave him his check each time. The pay checks were made out individually to each Hindu and I paid him each week." [25]

* * * * *

"Q. After Tomas Singh stopped working under you on that ranch in 1927, where did he go to work?

A. He went to work for my brother, Alberto on the other ranches of the same company.

Q. Where is Tomas Singh at the present time?

A. He is in the United States."

* * * * *

"Q. Was he still in Mexico at the time you came to the United States in 1929?

A. Yes, he was still working for my brother Alberto at that time. I don't know just when he did come to the United States.

Q. Have you seen him in the United States?

A. I saw him one time in Chinatown, Fresno, last year and my brother Pablo, who was then in the United States, but who is now in Mexico, told me that Tomas Singh was then working on the Wilson Ranch near Fowler, Calif.

Q. Did you talk to Tomas Singh when you saw him in Fresno at that time?

A. Yes, I said hello and we talked about Mexico. He said he came from Mexico. We didn't talk very much. I didn't have much time because I had my wife and had to go see the doctor."

(Id. pages 119 and 120).

Manuel Velasco testified on June 28, 1934, as follows:

"Q. During the time you worked in Mexico, did you ever have Hindus working for you?

A. Yes. In 1927 was the first time I worked Hindus, and also in 1928 while I was foreman for the Colorado River Land Company.

(Photograph of Thaman Singh, alias Tomas Singh, San Francisco file 12020/22525, exhibited to witness).

Q. Who is that?

A. That is Tomas Juan or Tomas Singh who worked for me when I was foreman for the

Colorado River Land Company in Mexico. He worked for me in 1927 and part of 1928.

Q. During the time he worked for you, did you have immediate supervision of his work and pay his checks?

A. Yes. I paid him by individual check each week, drawn by the Colorado River Land Company on the Mercantile Bank of Mexicali.

Q. About how many months altogether did this man work with you when you were foreman for that company?

A. I am not sure now. When those boys were not working for my brothers-in-law Alberto and Pedro Gonzales, they would work for me. This Tomas Singh worked for me about a year off and on.

Q. Are you positive that the person represented by this photograph (indicating photograph of Thaman Singh, alias Tomas Singh, San Francisco file 12020/22525) is the same person who worked for you during the time mentioned in Mexico?

A. It is.

Q. Have you seen him in the United States at any time?

A. I have. I saw him in 1933 in January and February at the Wilson Ranch near Fowler, Calif., and in Chinatown in Fresno, Calif.”

(Id. pages 122 and 123). [26]

In this connection petitioner testified on October 4, 1934, as follows:

“EXAMINING OFFICER:

* * * * *

There is introduced at this time and made a part of the record a sworn statement taken at Westley, California, from Pedro Gonzales, dated June 28, 1934, and marked Government Exhibit “N”. There is introduced and made a part of the record and marked Exhibit “O” sworn statement of Manuel Velasco, taken at Firebaugh, California, June 28, 1934. There is introduced in evidence and marked Government Exhibit “P” the photograph of Thaman Singh used in identification in connection with the statements designated as Exhibits “N” and “O”.

(The contents of Exhibits “N” and “O” are read to the alien by the interpreter.)

“Q. Have you any comments to make regarding those exhibits?”

A. The statements that have been read to me are all false.

Q. Do you know a man named Pedro Gonzales?

A. No.

Q. Do you know Manuel Velasco?

A. No.”

(Id. p. 58).

“Q. Who did you work for in 1932?

A. Then I worked for Wilson, and since that time I am still working for him.

Q. Did you work for Wilson from 1932 to the present time?

A. Yes.

Q. Where is his ranch located?

A. In Fowler, California.”

(Id. p. 37).

V.

Khushia Singh testified on October 4, 1934, as follows:

“Q. Do you know this alien Thaman Singh?

A. Yes, I know him.

Q. Was he on the “Minnesota” with you.

A. Yes. He was on the same boat.

Q. You are satisfied that this is the same man that landed at Seattle with you in 1912. Is that correct?

A. Yes, he is the same man.

Q. Have you seen him since that time?

A. I did not see him after landing for a long time.”

(Id. p. 42).

“Q. How often have you seen this man since you landed with him in 1912?

A. I just saw him in the last two years after we landed at Seattle in 1912.

Q. Do you know anything about this alien where he worked since he came to this country?

A. I don't know where he worked. Sometimes he worked one day one place and two days in another place. I don't know where he worked."

(Id. p. 43). [27]

"Q. Do you think this man remained in the United States all the time since his arrival in 1912?

A. I can't tell because I don't know."

* * * * *

"Q. Could this alien have left the United States between the time you entered with him in 1912 and the next time you saw him, without your knowledge?

A. No. I don't know whether he left the country or not.

Q. But if he had left the country would you know that he had left the country or would you be in a position to know that he had left the country?

A. No. I wouldn't know whether he left or not."

(Id. page 44).

Pakhar Gundo testified on October 4, 1934, as follows:

"Q. When did you first come to the United States?

A. I came to the United States perhaps in 1912.

Q. Do you remember the name of the ship you came here on?

A. I think the name of the steamer was
 “Minnesota.”

* * * * *

“Q. Do you know this Thaman Singh?

A. Yes.

Q. Was he on that steamer “Minnesota”
 that docked in 1912 at Seattle?

A. Yes.”

* * * * *

“Q. How often have you seen him since
 1912?

A. After landing at Seattle in 1912 I saw
 him in 1931 in Fresno.”

(Id. p. 46).

“Q. Could this alien have left the United
 States without your knowledge during the time
 you state you didn’t see him from 1912 to 1931?

A. I don’t know whether he left the country
 or not. I don’t know.”

(Id. p. 48).

H. H. McPIKE, AJZ
 United States Attorney,
 Attorney for Respondent.

[Endorsed]: Filed Nov. 18, 1935. [28]

In the Southern Division of the United States
District Court for the Northern District of
California.

No. 22,138-R.

In the Matter of

THAMAN SINGH

On Habeas Corpus

ORDER.

The application for a writ of habeas corpus (by order to show cause) having been heretofore submitted, it is, after a full consideration,

Ordered that the application for a writ of habeas corpus be and the same is hereby DENIED; that the petition be and the same is hereby DISMISSED; that the order to show cause be and the same is hereby DISCHARGED; and that the applicant be deported by the Immigration Authorities at San Francisco, California.

Dated: December 20th, 1935.

MICHAEL J. ROCHE

United States District Judge.

[Endorsed]: Filed Dec. 20, 1935. [29]

District Court of the United States, Northern District of California, Southern Division.

AT A STATED TERM of the Southern Division of the United States District Court for the Northern District of California, held at the Court

Room thereof, in the City and County of San Francisco, on Friday, the 20th day of December, in the year of our Lord one thousand nine hundred and thirty-five.

Present: The Honorable MICHAEL J. ROCHE,
United States District Judge.

[Title of Cause.]

Pursuant to a signed order this day filed, it is Ordered that the application for a writ of habeas corpus be and the same is hereby denied; that the petition be and the same is hereby dismissed; that the order to show cause be and the same is hereby discharged; and that the applicant be deported by the Immigration Authorities at San Francisco, California. [30]

[Title of Court and Cause.]

NOTICE OF APPEAL.

To the Clerk of the above-entitled Court; to Edward L. Haff, District Director of Immigration and Naturalization for the port of San Francisco; and to H. H. McPike, Esq., United States Attorney, his attorney:

You and each of you will please take notice that Thaman Singh, the petitioner in the above-entitled matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein on December 20th, 1935, denying the

petition for a writ of habeas corpus filed herein.

Dated this 2nd day of January, 1936.

JOSEPH P. FALLON

Attorney for Appellant.

[Endorsed]: Filed Jan. 2, 1936. [31]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Comes now Thaman Singh, the petitioner in the above-entitled matter, through his attorney, Joseph P. Fallon, Esq., and respectfully shows:

That on the 20th day of December, 1935, the above-entitled Court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, the appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors as [32] complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals for the

Ninth Circuit thereof, and further, that the said appellant be held within the jurisdiction of this Court during the pendency of the appeal herein, so that he may be produced in execution of whatever judgment may be finally entered herein; and further, that the appellant be released on bail in the sum of Two Thousand (\$2000.00) Dollars, pending the determination of said appeal.

Dated at San Francisco, California, January 2nd, 1936.

JOSEPH P. FALLON,
Attorney for Appellant.

[Endorsed]: Filed Jan. 2, 1936. [33]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes the appellant, Thaman Singh, through his attorney, Joseph P. Fallon, Esq., and sets forth the errors he claims the above-entitled Court committed in denying his Petition for a Writ of Habeas Corpus, as follows:

I.

That the Court erred in not granting the writ of habeas corpus and discharging the appellant, Thaman Singh, from the custody and control of Edward L. Haff, District Director of Immigration and Naturalization for the port of San Francisco.

II.

That the Court erred in not holding that it had jurisdiction to issue the writ of habeas corpus as prayed for in the petition on file herein. [34]

III.

That the Court erred in not holding that the allegation set forth in the petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.

IV.

That the Court erred in holding that there was substantial evidence before the Immigration authorities to justify the conclusion that the appellant was unlawfully in the United States.

V.

That the Court erred in not holding that there was no substantial evidence before the Immigration authorities to justify the conclusion that the appellant was in the United States unlawfully.

VI.

That the Court erred in holding that the evidence submitted before the Immigration authorities was of sufficient weight and legality to warrant the conclusion that the appellant, after having once lawfully resided in the United States, departed therefrom, and therefore forfeited his right to remain therein.

VII.

That the Court erred in holding that the appellant was accorded a full and fair hearing before the Immigration authorities.

VIII.

That the Court erred in not holding that the appellant was not accorded a full and fair hearing before the Immigration authorities.

WHEREFORE, appellant prays that the said order and judgment of the United States District Court for the Northern District of California, made, given and entered herein in the office of the Clerk of said Court on the 20th day of December, 1935, denying the petition for a writ of habeas corpus, be reversed, and that he be restored to his liberty and go hence without day.

Dated at San Francisco, California, January 2nd, 1936.

JOSEPH P. FALLON,
Attorney for Appellant.

[Endorsed]: Filed Jan. 2, 1936. [35]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

It appearing to the above-entitled Court that Thaman Singh, the petitioner herein, has this day filed and presented to the above Court his petition praying for an order of this Court allowing an

appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and order of this Court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor.

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein, upon the filing of a cost bond in the sum of Two Hundred Fifty (\$250.00) Dollars; and

IT IS HEREBY FURTHER ORDERED that the Clerk of the above-entitled Court make and prepare a transcript of all the papers, proceedings and records in the above-entitled matter and transmit [36] the same to the United States Circuit Court of Appeals for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Thaman Singh be and the same is hereby stayed pending this appeal, and that the said Thaman Singh be not removed from the jurisdiction of this Court pending this appeal; and

IT IS FURTHER ORDERED that the appellant, Thaman Singh, be released from custody on bail in the sum of Two Thousand (\$2000.00) Dollars.

Dated at San Francisco, California, January 2nd, 1936.

MICHAEL J. ROCHE,
United States District Judge.

[Endorsed]: Filed Jan. 2, 1936. [37]

[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL
EXHIBITS.

It appearing to the Court that the immigration records appertaining to the arrest of Thaman Singh, the detained herein, were introduced in evidence before and considered by the lower court in reaching its determination herein, and it appearing that said records are a necessary and proper exhibit for the determination of said case upon appeal to the Circuit Court of Appeals.

IT IS NOW THEREFORE ORDERED, upon motion of Joseph P. Fallon, Esq., attorney for the detained herein, that the said immigration records may be withdrawn from the office of the Clerk of this Court, and filed by the Clerk of this Court in the office of the Clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial District, said withdrawal to be made at the time the record on appeal is certified to by the Clerk of this Court.

Dated at San Francisco, California, January 2nd, 1936.

MICHAEL J. ROCHE,
United States District Judge. [38]

[Title of Court and Cause.]

PRAECIPE.

To the Clerk of said Court:

Sir:

Please issue copies of following papers for transcript on appeal:

1. Petition for Writ of Habeas Corpus.
2. Order to Show Cause.
3. Respondent's return to Order to Show cause and excerpts of testimony.
4. Order Denying Petition for Writ of Habeas Corpus.
5. Notice of Appeal.
6. Petition for Appeal.
7. Assignment of Errors.
8. Order Allowing Appeal.
9. Order Transmitting Original Exhibits.
10. Citation on Appeal.
11. Praecipe.

JOSEPH P. FALLON,

Attorney for Appellant.

[Endorsed]: Filed Jan. 2, 1936. [39]

District Court of the United States, Northern District of California.

CERTIFICATE OF CLERK TO TRANSCRIPT
OF RECORD ON APPEAL.

I, WALTER B. MALING, Clerk of the United States District Court, for the Northern District of

California, do hereby certify that the foregoing 39 pages, numbered from 1 to 39, inclusive, contain a full, true, and correct transcript of the records and proceedings in the Matter of THAMAN SINGH on Habeas Corpus, No. 22138-R, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Eight Dollars and Seventy-five Cents (\$8.75) and that the said amount has been paid to me by the Attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 10th day of January A. D. 1936.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. TAYLOR,

Deputy Clerk. [40]

CITATION ON APPEAL.

United States of America—ss:

THE PRESIDENT OF THE UNITED STATES
OF AMERICA

To EDWARD L. HAFF, District Director of Immigration and Naturalization for the port of San Francisco, and H. H. McPIKE, United States Attorney for the Northern District of California, his attorney herein, GREETING:

YOU ARE HEREBY CITED AND ADMONISHED to be and appear at a United States Circuit

Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Northern District of California, Southern Division, wherein THAMAN SINGH is appellant, and you are appellee, to show cause, if any there be, why the decree or judgment rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Michael J. Roche, United States District Judge for the Northern District of California, this 2nd day of January, A. D. 1936.

MICHAEL J. ROCHE,
United States District Judge.

Received copy of Citation on Appeal this 2nd January, 1935.

H. H. McPIKE,
U. S. Attorney.

[Endorsed]: Filed Jan 2, 1936. [41]

[Endorsed]: No. 8094. United States Circuit Court of Appeals for the Ninth Circuit. Thaman Singh, Appellant, vs. Edward L. Haff, District Director of Immigration, Naturalization for the port of San Francisco, Appellee. Transcript of Record Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed January 10, 1936.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.